REMARKS

The claims have been amended by adding independent claim 21 and dependent claims 22 through 26. Like the previous claims, new independent claim 21 describes a trusted entity located outside of a communication network and a communication device inside of the communication network with a firewall located between them. The trusted entity receives an information packet transmitted by a first device to the communication device, the information packet including a first destination address designation. The trusted entity then correlates the first destination address designation to a second destination address designation using a data element stored on the trusted entity.

Finally, the trusted entity transmits the received information packet with the second destination address designation, the second address being the address of a pinhole in a firewall that secures communications to and from the communications network and enables communication from the trusted entity to the second entity through the firewall. For the reasons discussed below, these elements are not present in the references cited by the Examiner and therefore should be allowed.

The Office Action relies on a combination of references ("Rodgers modified by Trossen") to support the §103 obviousness rejection of all pending claims. The rejection relies on the Rodgers reference to show a firewall location and an externally located computer, but the Office Action acknowledges that Rodgers does not perform "the specifics of the packet communications" set forth in the claims. *Rejection, p. 3* *("Rodgers fails to specifically disclose the specifics of the packet communications.")*.

Many of the claimed steps and system elements relate to the very aspects that the Examiner admits are not shown in the Rodgers reference. Instead of finding a majority of

the claimed subject matter in the Rodgers reference, the Examiner re-locates some of the packet operations from Trossen (which are performed exclusively inside or internal to the firewall) into the external computer shown in the Rodgers reference. Because Trossen also fails to disclose the claimed packet communication specifics, however, re-location of the Trossen functionality into the Rodgers' computer would still not result in the claimed invention.

Overall, the §103 invalidity analysis in the Office Action is misplaced for several reasons. First, the combination of "Rodgers modified by Trossen" does not adequately show all the claimed elements. Second, the Office Action fails to explain why the exclusively internal communication activities on the Trossen computer network can be re-located into the external computer shown in Rodger's reference. And, third, the present rejection does not explain why it would be appropriate to "pick and choose" from selected teachings in Trossen, modify them, and relocate them into the Rodger's reference without considering the actual combination of Rogers and Trossen as a whole. Once considered as a whole, the Rodgers and Trossen combination fails to support a viable §103 rejection. For these reasons, the claims in the present application should be allowed.

I.   The Present Invention

The present invention covers the creation of a pinhole communication port in a firewall through the use of a trusted entity linked to the firewall, where the trusted entity is located outside the communication network. *Application Specification, p. 10-11.* The trusted entity receives information packets and forwards the information packets to that pinhole communication port address after modifying the packet. The packet is modified

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in several ways, such as by conducting a replacement of the packet header address information with the address of the pinhole communication port.

It is the trusted entity linked to the pinhole communication port and located outside the communication network that performs the "specifics of the packet communications" in the claims. The trusted entity forwards the information packets to a device on the communication network through a pinhole communication port in the firewall, which would not be an operation needed if all the components (e.g. trusted entity) were located inside the firewall on the communication network (e.g. the communication components in the Trossen reference). *Application Specification, p. 15-17, Figs. 2 and 3, Ref. Nos. 135 and 235, respectively.*

In the claim, the trusted entity located outside the communication network supports the functionality necessary to have the firewall allow the information packet to be transmitted through the firewall to a device on the communication network. *Application Specification, p. 18-21, Figs. 4-6 (trusted entity outside communication network, linking trusted entity to pinhole communication port, message to trusted entity, using a routing table on the trusted entity to provide address designations, manipulation of address designations for pinhole communication port, transmission of packet to that manipulated address), see also, (Figs. 7-16 show alternative embodiments).*

Claim 1 locates the trusted entity outside the communications network with a gateway firewall on the boundary of the communication network. The trusted entity transfers packets to a communication device located in the communication network through a pinhole in the firewall. Claim 8 claims "receiving a create pinhole request at a trusted entity linked to the firewall of the communication network and located outside the

communication network." Further, Claim 15 also explicitly claims "providing a trusted entity having an input and an output outside the communication network." All claims dependent from Claims 1, 8 and 15 include these limitations, as well as others.

The independent claims, as well as the dependent claims, include numerous limitations that are not disclosed in the art relied upon by the Examiner. One focus of the claimed invention is the need to perform operations on the information packet outside the communication network before transmitting the information packet to a pinhole communication port (with port addresses) on the network firewall. These pre-transmission packet operations are performed by using a third party trusted entity provisioned outside the network to support communication to other devices on the communication network. The packet operations performed on the information packet include numerous operations to assist with the creation of the pinhole communication port, which are performed before the information packet is transmitted to the communication network.

II. The Reliance on Rodgers and Trossen is Misplaced

The Office Action relies on Rodgers as the primary reference supporting the invalidity rejection of all claims under 35 U.S.C. §103(a), and the Office Action states that "Rodgers modified by Trossen" supports the §103 obviousness analysis. It is believed that the present rejection is inappropriate.

The Office Action alleges the same characterization of Trossen asserted by the Examiner on appeal that was rejected by the Patent Office Appeal Board. Specifically, the Examiner alleges that "Trossen teaches a firewall on the communication network gateway for securing communications to and from the network . . . , a communication

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device on the communication network connected to the firewall by a communication link

. . . and said trusted entity replacing an address designation in the address header of one

of said information packets with an address designation for the first communication

pinhole." *Rejection, pg. 3*. The Appeal Board disagreed, stating unequivocally:

> Trossen discloses a mobile terminal (communication device) that is connected to
> a new access router (a trusted entity). The Access router is connected to a firewall
> with a pinhole that is connected to a new content source. Page 3, ¶ [0024]. As
> such, Trossen does not disclose a firewall located between the communication
> device and the trusted entity.

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Because Trossen lacks these fundamental elements it also fails to teach the

claimed aspect of a trusted entity that receives packets from an external device that

contains a first address and transmits the packet with a second address that corresponds to

a pinhole in the firewall, therefore enabling transmission between the trusted entity and

the communication device. Merely, attempting to move the devices described in *Trossen*

out of the network by citing *Rogers* does not rectify this deficiency.

A.   The Rodgers with Trossen Combination

The "Rodgers modified by Trossen" combination in the present rejection does not

adequately disclose, teach or suggest all the claim elements, and the rejection fails to

explain why the exclusively internal communication activities on the Trossen computer

should be re-located into the external computer shown in the Rodger's reference. Apart

from a firewall and an external computer, the Office Action admits that Rodgers does not

perform "the specifics of the packet communications" set forth in the claims. *Rejection,*

p. 3 ("Rodgers fails to specifically disclose the specifics of the packet communications.").

Instead of finding the claimed subject matter in Rodgers, the Examiner relocates certain packet communication operations shown in Trossen (which is performed exclusively inside or internal to the communication network) into the external computer shown in the Rodgers reference. The Office Action's reliance on the Rodgers and Trossen combination is misplaced, however, because this combination does not show all the claimed subject matter. The Office Actions in this matter admit that such is the case – the claimed subject matter is undisclosed in the primary Rodgers reference and the Trossen reference.

The first Final Office Action Rejection (previously issued) admitted that there is no teaching in the Trossen reference as to how the pinhole is created or that such a pinhole creation is similar to the manner in which the claimed invention requires the creation of the pinhole communication port. Without identifying any specifics in Trossen, the prior Final Office Action Rejection argues that "[t]here has to be some form of messaging that goes on in order to create the pinhole."[1] *Final Rejection, ¶3, p. 2.* As such, there is no indication in the cited references (or anywhere else) about the messaging necessary to create a firewall pinhole or the use of the externally-located trusted entity to perform the claimed subject matter in the present invention. Moreover, as admitted by the present Office Action, there is nothing in Rodgers that discloses, teaches or suggests all aspects of the claimed invention.

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[1] The Examiner mistakenly claims that such teachings are shown in the RSVP protocol (RFC 2205), which can be combined with the teachings of Trossen. *Final Office Action, ¶14, p. 6.* The RSVP protocol (RFC 2205), however, does not address pinholes or firewalls. The words "pinhole" and "firewall" do not even appear in that RFC 2205 for the RSVP Protocol. As such, the RSVP protocol does not disclose, teach or suggest the claimed invention when combined with Trossen.

For this reason, the combination of Trossen and Rodgers does not disclose the following:

*   "signaling messages include a create pinhole message" (Claim 3) and "a create acknowledge message" (Claim 4).

*   "creating a pinhole communication port in the firewall in response to the create pinhole request" (Claim 8).

*   "using address data from the create pinhole request" (Claim 9).

*   "transmitting said create pinhole request" and "receiving a create media pinhole acknowledgement." (Claims 9, 10 and 11).

*   "said link allowing information packets to be sent to a first communication pinhole through the firewall ...." (Claim 1).

*   "first communication pinhole is established using signaling messages ..." (Claim 2).

All claim limitations of the invention must be considered in determining patentability. *Hewlett-Packard Co. v. Bausch & Lomb, Inc.*, 909 F. 2d 1464 (Fed. Cir. 1990). Almost is not enough; the prior art must disclose all the elements. *Connell v. Sears, Roebuck & Co.*, 722 F. 2d 1542 (Fed. Cir. 1983). The Office Actions issued in this case have, at one time or another, admitted that the above-identified claim limitations are <u>not</u> disclosed in Rodgers or Trossen, and the Patent Office Appeal Board has found that these limitations are not disclosed in Trossen.

There is also no suggestion in Rodgers, Trossen, or the prior art that would suggest modifying the external computer in the Rodgers reference with the operations and capabilities of the internal computer disclosed in the Trossen reference. Why would

one move the capabilities performed internal to the Trossen communication system to a computer outside the communication system and the network firewall? What purpose would that serve? In answer to these inquiries, there is nothing in Trossen or Rodgers that would suggest making that modification.

There is no motivation to re-locate the internal computer network operation in Trossen so that it suddenly performs the same operations outside the communication system and the system firewall. Such a relocation is not suggested in Trossen, and it would hinder the performance of the Trossen system. Without an appropriate suggestion to modify or some benefit to the relation of capabilities, the rejection is based only on a speculative combination of modified references. The pending claims are allowable over the cited combination.

B.   Hindsight Reconstruction By Picking and Choosing

A significant problem in the rejection is the "picking and choosing" of only selected teachings from Trossen, modifying those teachings, and relocating those capabilities into the Rodger's reference without considering how the actual combination of Rogers and Trossen would operate if combined as a whole. Once considered as a whole, the Examiner's obviousness rejection fails to support a viable §103 rejection.

The Examiner combines selected portions of the Rodgers reference with selected portions of the Trossen reference to support his obviousness §103 rejection, but the Examiner concedes that the Rodgers reference does not teach, disclose, or suggest the claimed communication packet "specifics." And, the Board of Patent Appeals has already found that Trossen, likewise, does not support an invalidity rejection of the claims.

The combination of Rodgers and Trossen, considered as a whole, produces (at best) an external computer that does not perform the specifics of packet communications, a firewall between the external computer and the computer network, an internal firewall inside the communication network, and internal operations performed on an internal access router. Thus, even if combined as a whole, the Rodgers or Trossen would still not produce the following claim features: (1) "signaling messages include a create pinhole message" (Claim 3) and "a create acknowledge message" (Claim 4); (2) "creating a pinhole communication port in the firewall in response to the create pinhole request" (Claim 8); (3) "using address data from the create pinhole request" (Claim 9); (4) "transmitting said create pinhole request" and "receiving a create media pinhole acknowledgement." (Claims 9, 10 and 11); (5) "said link allowing information packets to be sent to a first communication pinhole through the firewall ...." (Claim 1); and (6) "first communication pinhole is established using signaling messages ..." (Claim 2).

The Examiner has admitted that these explicit claim limitations are <u>not</u> disclosed in Rodgers and Trossen, and the Board has found that these limitations are not disclosed in Trossen. For these reasons, it is apparent that the Office Action analysis improperly relies on picking and choosing selected teachings, without considering the reference as a whole. *In re Fine,* 837 F.2d 1071 (Fed. Cir. 1988) (one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention); *Rockwell Int'l Corp. v. United States,* 147 F.3d 1358 (Fed. Cir. 1998).

These references cannot be combined together to produce the claimed invention because each art reference cited as support for the §103 rejection must be combined as a

whole for what it teaches. This combination, once considered as a whole, does not produce the claimed invention, and the only way to produce the claimed invention from this prior art combination is to improperly use hindsight reconstruction of the claimed invention. Hindsight reconstruction and incorporating unsuggested modifications into the prior art references would be improper because the Examiner's rejections uses the claimed invention as a guide to impermissibly reconstruct the claimed subject matter through hindsight. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), *cert. denied,* 389 U.S. 1057 (1968). Because the rejection makes impermissible, unsupported assumptions regarding the teachings in the Rodgers and Trossen references, the Examiner's analysis should be rejected. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), *cert. denied,* 389 U.S. 1057 (1968).

The combination and modification of Rodgers and Trossen simply does not support the §103 rejection. The Office Action rejected the pending claims 1-20 based, in whole or in part, on its interpretation of these references, which is improper and mistaken. For all of these reasons, the reliance on this combination of references is believed to be misplaced, and allowance of Claims 1-20 is respectfully requested.

III. CONCLUSION

The claims are distinguishable from the teachings of the cited references. The Applicant believes that the arguments presented herein traverse the Examiner's 35 U.S.C. § 103 rejection. The independent claims are allowable because the cited reference fail to combine and disclose, teach, or suggest a trusted entity able to function as claimed. Since the dependent claims add further limitations to the allowable independent claims, the Applicant believes the dependent claims are likewise allowable. Accordingly, pending

claims 1-20 are believed allowable because the claimed invention is not disclosed, taught, or suggested by the cited reference.

The Response has been filed with a two month extension of time request and the appropriate fee. As such, no additional fees are required for filing this response. Please deduct the appropriate fees from Nortel Networks' Deposit Account No. 14-1315.

Respectfully submitted,

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